MULTIMEDIA UNIVERSITY

STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1 2015/2016 SESSION

UJP 3612–JURISPRUDENCE I

(All sections / Groups)
6 OCTOBER 2015

Reading Time: 2:30 p.m. to 2:45 p.m.
(15 Minutes)
Answering Time: 2:45 p.m. to 5:45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. **THIS EXAMINATION PAPER MUST NOT BE TAKEN OUT OF EXAM ROOM. IT MUST BE HANDED WITH THE ANSWER SHEETS.**

2. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

3. This Question paper consists of 4 pages. It has two Parts. Part A and Part B. **Question One in Part A is COMPULSORY. There are three Questions in Part B. Answer Only TWO Questions from Part B.** The distribution of marks for each question and sub-question is given.
4. Students are not allowed to take any Statute into the Examination Hall.
5. Please write all your answers in the Answer Booklet provided.

PART A. THIS QUESTION MUST BE ANSWERED

QUESTION 1

Answer only TWO of the following sub-questions

Briefly define, explain and if necessary compare and contrast the following:

(a) Inner view points (or) committed statements and external viewpoints (or) detached statements in H. L. A Hart's description of a particular legal system.
(17 marks)

(b) 'Law as superstructure' and the 'withering away of the State and law' in Marxist legal theory.
(17 marks)

(c) 'Original Actors' and 'Veil of Ignorance' in John Rawls theory of social justice
(17 marks)

(Total 34 marks)

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PART B: ANSWER ONLY TWO QUESTIONS FROM THIS PART

QUESTION 2

In the early 19th century Jeremy Bentham (1742-1832) stated his utilitarian theory of legislation should be based on a 'felicific calculus' where the final product or ultimate aim of legislation should be for the 'greatest happiness of the greatest number.'

(a) Explain what the statement means. In your answer briefly and concisely in no more than two or three sentences also explain what 'felicific calculus' and 'greatest happiness of the greatest number' mean.

(8 marks)

About 140 years later Lon Fuller (1902-1978) proposed that legislation in general should meet at least some of his eight criteria of 'inner morality of law' or 'procedural morality of law'.

(b) Briefly explain what 'inner morality of law' in so far as it relates to legislation in Fuller's theory.

(9 marks)

(c) There have been various critiques of both Bentham's and Fuller's theory concerning legislation. Briefly state ONLY one critique of both Bentham and Fuller's theory of legislation and briefly state with reasons whether you agree or not with only ONE critique of Bentham's OR Fuller's theory of legislation. (You need to comment only on ONE –either of the critique of Bentham or Fuller's theory NOT both) and briefly state with reasons overall whose theory of legislation you agree more or disagree less (that is either Bentham or Fuller).

(16 marks)

(Total 33 marks)

(Total: 33 marks)

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QUESTION 3

Two 19th century jurists John Austin (1790-1859) and Karl Marx (1818-1883) have made statements of what 'law' means,

John Austin states that 'Law is the Command of the Sovereign backed by the threat of sanctions'.

(a) Do you think that Austin's 'command theory of law' describes all, most, some or none of what Austin designates as 'laws properly so-called' in the early 21st century'. Why or Why not? Briefly answer the question.

(9 marks)

Karl Marx on the other hand states that 'law is an instrument of oppression used by one class against another (oppressed class) or by the rulers (slave-owners, feudal lords, capitalist) against another class'.

(b) Give one or two examples which can arguably illustrate what Marx states where law can be seen or viewed as instruments of oppression.

(9 marks)

(c) In your opinion and overall, in the early 21st century, which statement Austin or that of Marx is more reflective of most legal systems and laws and whose view Austin or Marx do you agree more (or disagree less) and why. Give reasons in your answers.

(15 marks)

(Total 33 marks)

QUESTION 4

From the mid-1950s to the mid-1980s Professor H.L.A. Hart in various books and articles 'debated' on various jurisprudential issues with among others Lord Patrick Devlin (1905-1992), and Professor Ronald Dworkin (1931-2013.)

Explain briefly the meaning of the following terms or the nature of the debate:

(a) H.L.A Hart views in relation to the Hart-Devlin debate on enforcement of morals as 'qualified liberalism' and Patrick Devlin's views as 'moderate moralism'.

(12 marks)

(b) H.L. A. Hart views that judges (mainly in common law countries in at least part-democracies where there is some semblance of independence of the judiciary) have strong discretion and Ronald Dworkin's view that judges only have weak discretion. Give ONE example of a case from United Kingdom, United States, Malaysia or other countries where the decision can, **in your opinion, to be argued with reasons,** illustrate EITHER Hart's view that judges have or should have strong discretion OR Dworkin's views that judges have or should have weak discretion.

(21 marks)

(Total 33 marks)

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